"He Who Touches The Palm Of A Woman (Not Lawful Unto Him) Will Have Burning Coals Placed On The Palm Of His Hand On The Day Of Qiyamah"
(BUKHARI)

THE MAS'ALA OF HURMAT-E-MUSAHARA

What Makes a Marriage or Potential Marriage Permanently Unlawful?

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بسم الله الرحمن الرحيم

PREFACE

Having been blessed by Allah Ta'ala with the opportunity of delivering lectures in different parts of the country and having touched on the subject of Hurmat-e-Musahara, I realised that people not only have very little or no knowledge at all about this Mas'ala, but are also seen to be extremely careless regarding this Mas'ala. Although this problem is found mostly in weddings, it is rapidly increasing in homes.

The amount of questions people have asked me regarding problems concerning Hurmat-e-Musahara has been the main inspiration behind this kitaab. One would find it hard to believe the type of questions that have been asked, although none of these questions and answers have been included in the kitaab due to reasons, but it is sufficient to say that today part of this Ummah is going through the same phase as the Bani-Israaeel did.

Hadhrat Abdullah Bin Amr (Radhiallahu-anhu) reported that Rasulullah (Sallallahu alaihi wasallam) has said :

> "For sure a time will come over my Ummah similar to that which came over the Bani Israeel. Just like one sandal is identical to another, if someone from them (Bani Israeel) committed fornication with his mother openly, there will (also) appear someone from amongst my Ummah who will do the same." **(Mishkaat)**

عن عبد الله بن عمرو ﵁ قال قال رسول الله صلى الله عليـــه وســـلم
ليأتين علي أمتي كما أتى على بني إسرائيل حذو النعل بالنعل حـــتى أن
كان منهم من أتى أمه علانية لكان في أمتي من يصنع ذلك (مشكوة)

The sole aim of this kitaab is to make the Muslim males and females aware of the law of Hurmat-e-Musahara in order that they may remain cautious and consequently live a chaste and pure life.

Alhamdulillah, it is the Grace of Almighty Allah Ta'ala, the most Powerful and Exalted, that He enabled the completion of this Kitab on the Day of Arafaat,

9th Zul-Hijjah 1417 (Hijri)
16th April 1997

Muhammed Faruk

ALLAH TA'ALA'S COMMAND

بسم الله الرحمن الرحيم

الحمد لله رب العالمين و الصلوة و السلام على رسوله الكريم و على اله
و أصحابه أجمعين

أما بعد : فأعوذ بالله من الشيطان الرجيم ۞ بسم الله الرحمن الرحيـــم
۞ قل للمؤمنين يغضوا من أبصارهم و يحفظوا فروجهم ط ذلك أزكى
لهم ط إن الله خبير بما يصنعون ۞ و قل للمؤمنـــات يغضضـــن مـــن
أبصارهن و يحفظن فروجهن و لا يبدين زينتهن ۞

(O' Rasul) "Tell the believing men to lower their eyes and guard their private parts : For that will make for greater purity for them : For sure Allah is well aware of all that they do. And tell the believing women to lower their eyes and guard their private parts : And that they do not display their beauty."

(Sura Nur : Verse 30/31)

HURMAT-E-MUSAHARA. A VERY DELICATE MAS'ALA

Islam is a complete way of life. It guides a Muslim in his/her beliefs, worship, dealings with others, social life and morals. It shows what to do in times of happiness and sadness, weddings and death etc. Yet it is sad to say that the Muslims are neglecting the laws of Shari'ah. This can be clearly seen at engagements and weddings where free mixing of the sexes has gone to such an extent that very few seem to notice that what happens is completely against the Shari'ah.

With regards to the above, Rasulullah (Sallallahu alaihi wasallam) has given a stern warning by saying:

"Three types of people will never enter Paradise,

1.) A Dayyous.
2.) A female who imitates the ways of a male.
3.) An alcoholic" (A drug addict is in the same category as an alcoholic. Alcohol and drugs are both intoxicants.)

The Sahaba (Radhiallahu-anhuma) enquired as to who a Dayyous is;

Rasulullah (Sallallahu alaihi wasallam) replied :

"The person who does not care about who comes and goes from the female members of his family"

(Jam'ul Fawaaid)

قال رسول الله صلى الله عليه وسلم ثلاثة لا يدخلون الجنة أبدا الديوث و الرجلة من النساء و مدمن الخمر قالوا فما الديوث قال الذي لا يبالي من دخل على أهله (جمع الفوائد)

Rasulullah (Sallallahu alaihi wasallam) has forbidden a male from walking in between two females. **(Abu Dawood)**

نهي النبي صلى الله عليه وسلم أن يمشي الرجل بين المرأتين (أبو داؤد)

A mixed audience of males and females, young and old, observe a father-figure lead his daughter, arm in arm, up to the stage. They all witness the father-in-law place a wedding ring on his daughter-in-law's finger and they watch him kiss, embrace or shake hands with her. They all witness the mother-in-law embrace, caress and kiss her son-in-law and place a wedding ring on his finger. They all witness the females touch the bridegroom and take the "Balaah." Has Shari'ah not declared this unlawful ?

Rasulullah (Sallallahu alaihi wasallam) has clearly told the Ummah that:

"Fornication of the hand is to touch."

(Muslim)

قال رسول الله صلى الله عليه وسلم في حديث طويل اليد زناها البطش

(مسلم)

Rasulullah (Sallallahu alaihi wasallam) has also said that :

"For an iron rod to be driven into your head is better than touching a woman who is not lawful for you." (The same applies for a woman to touch a man who is not lawful for her.) **(Tibrani, Baihaqi)**

قال رسول الله صلى الله عليه وسلم لان يطعن في راس احدكم بمخيط من حديد خير له من ان يمس امرأة لا تحل له (بيهقي)

These are just some of the major sins committed at engagements/weddings. The list of other sinful western imitations and innovations are endless.

These abominable sins take place in front of family, friends and relatives. Yet these sins have become so common that no-one realises that there is a law called "Hurmat-e-Musahara" which applies directly to some of these activities. Not only do these activities lead to destruction and punishment in the Hereafter but they can also lead to the **PERMANENT** breaking up of engaged and married couples according to the Sharee Law.

It is worth noting here that in the case where Talaaq-e-Mughallazah takes place (whereby a husband pronounces Talaaq thrice to his wife,) should the concerned couples wish to re-unite, then the Shari'ah has, as a last resort reluctantly allowed recourse to a method known as Sharee Halaala*. Yet,

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*Sharee Halaala is when a woman who has been given Talaaq-e-Mughallazah completes her Iddat i.e. the waiting period (this will be 3 menstrual periods for a woman who still has
Monthly cycles, 3 months for a woman who does not have periods due to health reasons/a woman past the age of monthly cycles and a pregnant woman's Iddat will be until the child is delivered) then gets married to someone and has intercourse with the person. Thereafter if her present husband coincidentally dies or for some reason divorces her then she will complete the appropriate Iddat (Iddat of death is 4 months and 10 days and for divorce it is as mentioned above) and only then will it become lawful for them (the first couple) to re-marry.

in the instance where engaged/married couples have become unlawful on each other because of Hurmat-e-Musahara they have absolutely no means of recourse to any form or method of marrying/remarrying should they wish to do so.

If the engaged/married couple do not separate, their living together will be unlawful, a major sin and fornication.

All this in turn leads to destruction, heartbreak and lives are lived in regret. A great number of households have been ruined in this way.
It is important to remember that this matter cannot be ignored or taken lightly else the punishment in the Hereafter for this grave sin is very severe.

Sometimes, immediately after the engagement takes place, the people involved commit an act which causes a Sharee rule to apply, due to which the couple cannot marry. Often soon after the Nikah ceremony has taken place in the Masjid, something happens in the wedding hall, registry office or home that makes it necessary for the newly wed couple to separate straight away.

All this happens because people are either ignorant to the laws of Shari'ah or have knowledge about Sharee Laws but simply follow their own desires and turn their backs on Shari'ah.

The Ulamaa and Islamic Jurists have compiled many books on the ruling of Shari'ah pertaining to Hurmat-e-Musahara. The Ulamaa have undergone such laborious and painstaking tasks of compiling vital Sharee rulings solely for safeguarding the Ummah from vices and social evils as mentioned above. (It is

now the Ummah's responsibility to learn and practise upon these laws.)

WHAT IS HURMAT-E-MUSAHARA?

Hurmat-e-Musahara is a law of Shari'ah that forbids specific males from marrying specific females. This law applies when their has been unlawful contact between a male and a female **(intentionally or unintentionally)** within certain conditions laid down by Shari'ah.

Sometimes this law applies to engaged/married couples, hence making it compulsory for the couple to separate immediately.

AHAADITH RELATING TO THE LAW OF HURMAT-E-MUSAHARA AND NARRATION'S FROM THE SAHABA.

Rasulullah (Sallallahu alaihi wasallam) has said :

"If a male looks at the private part of a female with lust/desire, her mother and daughter will become unlawful on him."

(Fat-Hul-Qadeer : Volume 3 : Page 131)

قال رسول الله صلى الله عليه وسلم من نظر إلي فرج امـــــرأة بشـــهوة
حرمت عليه أمها و ابنتها (فتح القدير)

Rasulullah (Sallallahu alaihi wasallam) has also said :

" If a male touches a female with lust/desire her mother and daughter will become unlawful on him."

(Kanz-Ud-Daqaaiq : Page 93 : Footnote)

قال رسول الله صلى الله عليه وسلم لو مس إمرأة بشهوة حرمت عليـــه
أمها و ابنتها (حاشية كنز الدقائق)

Hadhrat Ibne-Umar (Radhiallahu-anhuma) narrates :

"If a male has intercourse with a female, kisses/touches her with lust or looks at her private part with lust, the female becomes unlawful on the male's father and son, and the females daughter and mother become unlawful on the male."

(Fat-Hul-Qadeer : Volume 3 : Page 131)

عن ابن عمر ﷺ قال إذا جامع الرجل المرأة أو قبّلها أو لمسها بشـــهوة
و نظر إلي فرجها بشهوة حرمت علي أبيه و ابنته و حرمت عليه أمــها و
ابنتها (فتح القدير)

Someone told Hadhrat Ibn Abbas (Radhiallahu-anhu) that he had committed fornication with his mother-in-law. Ibn Abbas replied :

"Your wife has become unlawful for you."

(Ainee : Volume 16 : Page 293)

أن رجلاً قال انه أصاب أم امرأته فقال له ابن عباس ﷺ حرمت عليك امرأتك (عيني)

Hadhrat Imran Bin Al Hussain (Radhiallahu-anhu) narrates :
"If a person commits fornication with his mother-in-law, both his mother-in-law and wife will become unlawful on him." **(Ainee : Volume 16 : Page 294)**

قال عمران بن الحصين ﷺ من فجر بأم امرأته حرمتا عليه جميعا (عيني)

A FEW IMPORTANT POINTS MADE BY THE ULAMAA.

The Ulamaa have repeatedly stressed the importance of the following things:

1) Mother-in-laws should stay well away from their son-in-
2) laws and vice versa.
3) Father-in-laws should stay well away from their daughter-in- laws and vice versa.
4) Mothers should be very careful with their young sons.
5) Fathers should also be very careful with their young daughters.

Who could be more safer from Shaytaan than Abu Bakr (Radhiallahu-anhu) and Aaisha (Radhiallahu-anha), yet once when Rasulullah (Sallallahu alaihi wasallam) saw Hadhrat Abu Bakr (Radhiallahu-anhu) sitting alone in the house with his daughter Hadhrat Aaisha (Radhiallahu-anha), he exclaimed :

"Abu Bakr ! The Shaytaan is not far. Do not sit alone with the daughter, but get a third person to be present with you." **(Me'yarus-Sulooq)**

(Allah has praised both Hadhrat Abu Bakr and Hadhrat Aaisha's purity and piety in several verses of the Holy Qur'an)

It is clear from the above points made by the Ulamaa that :

- The mother-in-law must not touch, embrace, kiss or place the ring on the son-in-law's finger.
- The father-in-law must not touch, embrace, kiss or shake hands with the daughter in law.
- The father must not lead his daughter on to the stage by hand, shake her hand or embrace her.

THE SHAYTAAN CANNOT BE TRUSTED NEITHER CAN THE NAFS (SELF DESIRES.) THERE IS A VERY HIGH CHANCE OF "HURMAT-E-MUSAHARA" APPLYING, IF THE PERSONS MENTIONED ABOVE DO NOT TAKE HEED FROM THE ULAMAA' ADVICE.

A FEW WORDS AND IMPORTANT ADVICE ON HURMAT-E-MUSAHARA BY HAKIMUL UMMAH HADHRAT MOULANA ASHRAF ALI THANVI (RAHMATULLAHI-ALAIH)

Hadhrat Thanvi (Rahmatullahi-alaih) says :

If a man touches his mother-in-law or his wife's daughter (from his wife's previous or current marriage) with lust, thinking that it is his wife, then realises his mistake and immediately takes his hands off, his wife will still become unlawful for him.

The wife becoming unlawful here is not as a form of punishment, but is due to the natural implication of consequences of the act. A perfect example of this is : If a person takes fatal poison without intention of harming himself, he will still be harmed or even killed, because it is the nature of the poison to kill.

In exactly the same way spiritual activities and deeds bring about its natural effects even when a person has no deliberate intention of harming oneself. These spiritual influences are known and understood by Rasulullah (Sallallahu alaihi wasallam) and also known by the people who are experts in Shari'ah (Ulamaa.)

NOTE : Punishment in the hereafter will only be inflicted if the female is touched with intent. (The same applies if a female touches a male.)

Sometimes men put their hands (with lust/desire) on their son's wife (daughter-in-law) by mistake or through mischief. In either case the daughter-in-law will become unlawful on her husband. (She will become unlawful for his son)

Some people have an even greater questioning of this Mas'ala. In the first instance (when the man touched his

mother-in-law or wife's daughter from his wife's previous or current marriage) it can be said that the wife had been made unlawful because her husband made a mistake; that he did not take extra precaution in looking at who he was touching. Yet in this instance, the man whose wife has become unlawful on him is faultless; What has he done that makes him take the full burden of the consequences?

The answer to this question is the same as mentioned earlier. That is, it is not a punishment on him but it is the nature of the act which leads to this conclusion. Note here that the special effect of this act is established by the Shari'ah.

Due to the delicate nature of the law of Hurmat-e-Musahara it is very important that none of the above mentioned females (mother-in-law, daughter-in-law and wife's daughter, whether from him or a previous husband) should be present where the wife sleeps. If for some reason other females have to be present at the wife's sleeping place, then until the wife is not called and the wife's voice is not heard in reply, the husband must not touch her.

** One must not rely on his knowledge of his wife's bedding etc. Relying on this can lead to making regrettable mistakes. **

If one has to take anything from the afore mentioned females then one must be extremely careful and make sure that the male's hand does not touch the female's hand. One must not trust his/her base desires. If the

hand touches, and by doing so feelings of excitement and desire develops in the man or woman, then Hurmat-e-Musahara will apply.

Sometimes one does not know what the feeling in the other persons heart is; So then how can one practice on the law of Hurmat-e-Musahara?

And if one knows that lust emerged in ones own heart then one will feel too shy to reveal it in fear of what people will think and say.

This will result in a person doing unlawful activities for the rest of his/her life.

(Islahe-Inqilaab-e-Ummah : Volume 2 : Page 59-60)

BY NO MEANS DO ANY OF THE ULAMAA SAY THAT DAUGHTERS SHOULD HAVE SUSPICIONS ABOUT THEIR FATHERS, SONS ABOUT MOTHERS, DAUGHTER-IN-LAWS ABOUT FATHER-IN-LAWS ETC. THERE IS NO DOUBT ABOUT IT; THEIR RIGHTS MUST BE FULFILLED AT ALL TIMES. BUT WHAT THE ULAMAA ARE SAYING IS THAT CARE MUST BE TAKEN AT ALL TIMES SO THAT HURMAT-E-MUSAHARA DOES NOT APPLY AND A MAJOR MISTAKE IS NOT MADE, BECAUSE IT COULD LEAD TO THE PERMANENT BREAKING UP OF A WELL SETTLED AND UNITED FAMILY.

THE FOLLOWING MASA'IL HAVE BEEN TAKEN FROM HADHRAT MOULANA ASHRAF ALI THANVI'S (RAHMATULLAHI-ALAIH) BEHISHTI ZEWAR

c) If a female touches a man with lust, the female's mother and daughter cannot marry that man.

c) If a man touches a female with lust, the man cannot marry that female's mother and daughters.

c) If a man goes to wake his wife up in the night and mistakes his wife's daughter (from his wife's previous or present marriage,) or his mother-in-law, to be his wife, he touches either of them with lust and desire, his wife will become unlawful on him. There is no way for them to become lawful on one another and it is compulsory for the husband to divorce his wife.

(Part 4 : Page 52)

RASULULLAH (SALLALLAHU ALAIHI WASALLAM'S) CLEAR WARNING AGAINST MALES AND FEMALES STAYING IN SECLUSION TOGETHER.

It is unlawful for a male and female to stay in seclusion together. The following Ahaadith proves how dangerous it can be if they do.

HADITH 1

Hadhrat Umar (Radhiallahu-anhu) narrates from Rasulullah (Sallallahu alaihi wasallam) that when somebody is alone with a female the Shaytaan is the third. **(Tirmizi)**

قال رسول الله صلي الله عليه وسلم لا يخلون رجل بــامرأة إلاكــان ثالثهما الشيطان (مشكوة)

HADITH 2

Rasulullah (Sallallahu alaihi wasallam) has forbidden entry to the homes of those females whose husbands are not present, and the reason given by Rasulullah (Sallallahu alaihi wasallam) is that :

"The Shaytaan flows in the human body like blood" **(Mishkaat)**

قال الشيطان يجري من أحدكم مجري الدم (مشكوة)

QUESTIONS AND ANSWERS THAT HAVE ARISEN FROM SITUATIONS WHERE HURMAT-E-MUSAHARA HAS APPLIED

As it can be seen from the Ahaadith mentioned earlier, there is a chance of a sin being committed when a male and female are

alone. If a sin is committed, even if it may be just touching with lust, the law of Hurmat-e-Musahara may apply.

The following questions on Hurmat-e-Musahara are just a few from the many that can be found in various kitaabs. The Ulamaa who have written the kitaabs have been asked these questions by people. The importance of remembering the law of Hurmat-e-Musahara is seen in the questions. The Ulamaa' answers to the questions show critical consequences that may occur if Hurmat-e-Musahara is not given due importance.

** Considering these times of corruption and evil, Ulamaa have said that it is necessary for the females to do Purdah in the presence of their father-in-laws. **

(Islahe-Khawateen : Page 549)

For the young father-in-law to stay alone in the house with the daughter-in-law is Makrooh. If there is any chance of a sin being committed then it is Haraam.

QUESTIONS INVOLVING THE FATHER-IN-LAW

QUESTION - 1

A wife lives at her husband's house. Her father-in-law also lives in the same house.

After sometime, the wife goes back to her parents house, and she is now accusing her father-in-law of touching her with evil intentions. There are no witnesses to the incident.

ANSWER

If the husband is convinced that his wife is speaking the truth she will become unlawful on him, but the marriage will not break until the husband does not divorce the wife.

If the husband is not convinced by his wife's accusations, she will remain lawful for him.

ثبوت الحرمة بمسها مشروط بان يصدقها أو يقع في اكبر رأيه صدقـها و علي هذا ينبغي أن يقال في مسه إياها لا يحرم علي أمـه و ابنـه إلا أن يصدقاه أو يقع علي ظنها صدقه (فتح القدير ج ٢ ص ٣٦٧)

(Fataawa Mehmoodia : Volume 8 : Pages 166-167)

QUESTION - 2

a) A father-in-law raped his daughter-in-law. Will the female still remain lawful for her husband ?

QUESTION

b) If there are witnesses to the father-in-law's evil sin, but the husband still does not believe the incident ?

QUESTION

c) If the female is the only person claiming that she was raped *, what is the ruling on separation ?

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*It is a great crime in Islam to falsely accuse a Muslim of fornication.

QUESTION

d) Can the wife get married to someone else if the husband accepts that his wife was raped but does not release her from the marriage ?

ANSWER - 2

a) The female will not remain lawful.

ANSWER

c) If the witnesses are Sharee witnesses, the husbands denial is of no value.

ANSWER

d) Separation cannot take place merely because of the female's claims of being raped. Separation can only take place if the husband accepts the incident or if the rape is proved by Sharee witnesses.

ANSWER

e) The wife cannot get married to someone else until a Muslim ruler or Sharee Council separates her from her husband, or until the husband practically or orally divorces her. The method of orally leaving her is by saying "I have left you."

(Fataawa Darul-Uloom Qadeem : Page 555)

QUESTION - 3

'Girl' is married to 'Boy'. 'Boy's' father raped 'Girl'. Does 'Girl' become unlawful for 'Boy' ? And can 'Girl' marry someone else without getting a divorce from 'Boy'?

ANSWER

If it is true that 'Boy's' father raped his daughter-in-law 'Girl', she will become totally unlawful on her husband and she cannot marry someone else until 'Boy' leaves her practically or says
"I leave you."

If 'Boy' is not willing to let 'Girl' go, 'Girl' can go to a Sharee Council and thus force 'Boy' to let her go.

وبحرمة المصاهرة لا يرتفع النكاح حتى لا يحل لها التزوج بآخر إلا بعد المتاركة و انقضاء العدة و قال الشامي و عبارة الحاوي إلا بعد تفريق القاضي أو المتاركة (الدر مختار)

(Fataawa Darul-Uloom Qadeem : Page 555)

* An important Mas'ala to remember.

When a boy reaches the age of ten, it is not permissible for the boy to sleep in the same bed as his mother, sister or brother. In the same way when a girl reaches the age of ten, it is not permissible for the girl to sleep in the same bed as her father or brother.

و إذا بلغ الصبي أو الصبية عشر سنين يجب التفريق بينهما و بين أخيه وأخته و أبيه و أمه و أبيه في المضجع لقوله عليه الصلوة و السلام و فرقوا بينهم وهو أبناء عشر (الدر مختار ج ٥ ص ٣٧٦)

(Behishti Zewar : Part 3 : Page 66)

QUESTIONS INVOLVING THE DAUGHTER

QUESTION - 1

A husband kissed his daughter with lust and desire by assuming she was his wife. Will his wife become unlawful for him ?

ANSWER

The wife has become unlawful.

(Ahsan-Ul-Fataawa : Volume 5 : Page 84)

QUESTION - 2

If a person held his young daughters breast with lust, can the girl's mother and father stay as husband and wife or is their marriage broken ? If the marriage is broken is there any means of reconciliation ?

ANSWER

If the girls body was covered with cloth so thick that the father could not feel the heat of her body, Hurmat-e-Musahara will not apply. If the girls body was covered by no cloth at all or covered with such a thin cloth that her father could feel her body heat, Hurmat-e-Musahara will apply.

(قوله بحائل لا يمنع الحرارة) أي و لو بحائل فلو كان مانعا لا تثبت الحرمة (رد المحتار ج ٢ ص ٣٨٥)

ثم المس إنما يوجب حرمة المصاهرة إذا لم يكن بينهما ثوب أما إذا كان بينهما ثوب فان كان صفيقا لا يجد الماس حرارة الممسوس لا تثبت

حرمة المصاهرة و إن انتشرت آلته بذلك و إن كان رقيقا بحيث يصل
حرارة الممسوس إلي يده تثبت كذا في الذخيرة (عالمكيري ج ٢ ص ٦)

The girls mother will always remain unlawful on the father. There is no way of getting back together, either by re-performing the marriage ceremony or by any other means.

و حرم بالصهرية (أصل مزنيته و اصل ممسوسته بشهوة) و لو لشعر على
الرأس بحائل لا يمنع (الدر المختار مع الشامي ج ٢ ص ٢٨٥)

فلو أيقظ زوجته أو أيقظته هي لجماعها فمست يده بنتها المشتهاة أو
يدها ابنه حرمت الأم أبدا (الدر المختار مع الشامي ج ٢ ص ٣٨٨)

(Fataawa-Rahimiyya : Volume 5 : Page 255-256)

QUESTION - 3

A person went to his wife's bed at night to fulfil his desires. His young daughter was sleeping next to his wife. His hand touched his daughters arm etc. He immediately realised that it was his daughter. What is the Mas'ala for this person ? Moulana Ashraf Ali Thanvi has said in Behishti Zewar that the man will become unlawful on his wife and he will need to divorce her. The mistake was made by the man. What has the female done wrong?

ANSWER

Hadhrat Moulana Ashraf Ali Thanvi has written this Mas'ala in the fourth part of Behishti Zewar on page 52. He has also written the answer to the 2nd question in Imdadul Fataawa. He has been asked the same question. Here is the answer given by him :

"The female does not become unlawful because of any fault on her part. She becomes unlawful because when one thing occurs the other is a result of it occurring. If a person takes poison by mistake, there is no sin but the person will die as a result. Whether the poison is taken accidentally or on purpose, the poison will have its effect. In the same way whether the girl is touched with lust, by mistake or the fervour of youth, the effect will take its course."

If the girl is mature and was touched with lust, the wife i.e. the girls mother, will become unlawful on the husband. It is necessary for him to separate from her.

و حرم أيضا بالصهرية اصل مزنيته أراد بالزنا الوطى الحرام و اصل
ممسوسته بشهوة لان المس و النظر سبب داع إلي الوطى فيقام مقامه في
موضع الاحتياط. (الدر المختار)

(Fataawa Mehmoodia : Volume 3 : Page 350-351)

The son-in-law is a Mehram for the mother-in-law. (She can never marry him) Yet due to times of corruption and evil, Purdah is necessary in exactly the same way as it is for a Non Mehram.
(A person she can marry)

(Sharee Purdah : Page 41)

NOTE : It is also important to remember that Ulamaa have made it clear that it is Makrooh for a young mother-in-law to stay alone in the house with her son-in-law. If there is any chance of a sin being committed then it will be Haraam to remain alone.

The following questions are illustrative examples of why it is important for the young mother-in-law to observe Purdah in front of her son-in-law.

QUESTIONS CONCERNING THE MOTHER-IN-LAW

QUESTION - 1

What do the respected Ulamaa and Muftis say about the following Mas'ala ?

'Boy' is engaged to 'Girl'. After the engagement 'Boy' was sleeping at his future in laws house when 'Girl's' mother who is young came and kissed him with lust. 'Boy' immediately woke up and showed his displeasure. The same incident happened again. 'Boy' has intention of marrying 'Girl' yet he is worried because someone told him he cannot marry her. 'Boy' wants to know if it is true that there is no way his marriage to 'Girl' can take place.

ANSWER

If the young female has kissed her future son-in-law with lust/desire on the cheek, forehead or mouth then Hurmat-e-Musahara will apply. 'Girl' will always remain

unlawful on 'Boy' because the action was inviting towards intercourse, and according to the Hadith this action is within the category of intercourse.

و من مسته امرأة بشهوة حرمت عليه أمه و بنتها (هدايه أولـــين ج ٢ ص ٢٨٩)

When a female touches or kisses a man, her mother and daughter become unlawful on him.

و في الكشاف و المس و نحو كالدخول عند أبي حنيفـــة (قولـه و في الكشاف الخ) و لا يخفي أن المتون طافحة بان المس و نحوه كـالوطء في أيجابه حرمة المصاهرة من غير اختصاص بموضع دون موضع (الدر مختار مع الشامي ج ٢ ص ٢٨٣)

NOTE: The cheek, forehead and mouth are only mentioned as examples. These are not the only places that can be kissed for Hurmat-e-Musahara to apply. The mouth, cheek and forehead are only mentioned as they are the places normally kissed.

If any part of the body is kissed with lust and desire (without anything in between) Hurmat-e-Musahara will apply.

If there is no cloth etc. in between or the item in between is so thin that the body heat can be felt through, Hurmat-e-Musahara will still apply.

If however the item in between is so thick that body heat cannot be felt through it by the other person, Hurmat-e-Musahara will not apply.

(Fataawa-Rahimiyya : Volume 5 : Page 248, 249)

QUESTION - 2

'Boy' has been engaged to a girl. One day 'Boy' brought a sample of rice and took it home in his hands. He was showing the rice to his future father-in-law when all of a sudden his mother-in-law to be, took some rice out of 'Boy's' hands to look at. An unpleasant thought occurred in 'Boy's' heart. There was no lust or desire. By touching in this way, can 'Boy' marry his fiancee ?

ANSWER

في الدر المختار و العبرة للشهوة عند المس و النظر لا بعدهمـــا وحدهـــا فيهما تحرك آلة أو زيادته به يفتي و في امرأة و شيخ كبير تحرك قلبـــه أو زيادة في رد المختار قال في الفتح ثم هذا الحد في حق الشباب أما الشـــيخ و العنين فحدهما تحرك قلبه أو زيادة لو كان متحر كا لا بمجـــرد ميـــلان النفس فانه يوجد فيمن لا شهوة له أصلا كالشيخ الفاني ثم قال و لم يجد و الحد المحرم منها أي من المرأة و اقله تحرك القلب علي وجـــه يشـــوش الخاطر و في الدر المختار و اصل الممسوسة بشهوة و اصـــل ماسـته و فروعهن في رد المحتار قوله و اصل ماسته أي بشهوة قـــال في الفتـــح و

ثبوت الحرمة بلمسها مشروط و بان يصدقها و يقع اكبر رائه صدقـــها.

(الدر المختار)

From the above, we can understand that if 'Boy's' state is such that at the time of touching erection takes place, we are able to say that lust occurred in 'Boy'. If however erection did not take place then it will not be said that lust/desire occurred.

If **HOWEVER** 'Boy's' state is such that erection cannot occur when he is touched but there was lust/desire in the heart then it will be said that there was lust/desire in 'Boy's' heart.

In exactly the same way it will be said that there was lust/desire in the mother-in law, if there was lust/desire in her heart when she touched 'Boy'.

If there was lust in 'Boy' OR the mother-in-law, the girl will become unlawful on 'Boy'. The mother-in-laws feelings will only be known if she informs someone of her feelings. If through any sign there is doubt (that lust occurred,) it is compulsory to ask her. If there were no signs to create any doubt there is no need to ask.

(Imdadul Fataawa : Volume 2 : Page 309-310)

QUESTION - 3

If the wife has become unlawful because the man touched or kissed the mother-in-law with lust, will conducting the marriage again make them lawful for one another or will they always remain unlawful for each other ?

ANSWER

By touching the mother-in-law with lust the wife will become unlawful and will always remain unlawful. It is Wajib for the husband to separate from her. She cannot return into marriage with the man.

وحرم أيضا بالصهرية اصل مزنيته و اصل الزاني إلي قوله و فروعهن

(الدر المختار)

(Fataawa Darul-Uloom-Jadeed : Volume 7 : Page 327)

QUESTION - 4

A mature boy has been married to a widow's daughter, who is not yet mature. Due to the girls young age she has not yet gone to her husband's house. It is now being said that the boy had an unlawful affair with his mother-in-law.

Is it lawful for the boy to stay in marriage with the girl or not ?

ANSWER

If it is proved that the boy has committed adultery with his mother-in-law or touched her etc. with lust, his wife who is not yet mature will become unlawful for him.

(Fataawa Darul-Uloom-Qadeem : Page 552/555)

QUESTION CONCERNING THE STEP MOTHER

QUESTION - 1

A boy touched his step mother with lust/desire. Will the step mother become unlawful on the boy's father ?

ANSWER

If the hand touched the naked body or touched the body which had cloth thin enough for the body heat to be felt through, the step mother will become unlawful on the boy's father.

(Ahsan-Ul-Fataawa : Volume 5 : Page 85)

QUESTION CONCERNING UNLAWFUL RELATIONSHIP

QUESTION - 1

'Boy' kissed 'Girl' and touched her with lust but he did not have intercourse with her. Can 'Boy' marry 'Girl's' daughter ?

ANSWER

By kissing and touching with lust Hurmat-e-Musahara will apply. Therefore 'Boy' cannot marry 'Girl's' daughter.

(Fataawa Darul-Uloom : Volume 7 : Page 339-340)

CONDITIONS FOR HURMAT-E-MUSAHARA TO APPLY

If any of the factors mentioned below occur, then Hurmat-e-Musahara will apply.

1) Unlawful intercourse - with the condition that both the male and the female are Baaligh (mature) or Muraahiq (one who is nearing the age of puberty.)

1) If there is lust in either the Baaligh/Muraahiq male or Baaligh/Muraahiq female when they make physical contact (touching, kissing etc.) with no material/cloth in between or material/cloth so thin that body heat can be felt through.

Lust will be defined as the following :

a) If erection occurs in a male when physical contact is made. If erection increases when erection had already occurred prior to physical contact.

d) If erection does not occur in a male due to health reasons/old age, then if lust/desire occurs in the male's heart at the time of physical contact.
If lust/desire was present prior to physical contact and it increases when physical contact is made.

c) If lust/desire occurs in a female when physical contact is made and it was not present prior to physical contact.
If lust/desire was present prior to physical contact then it increases when physical contact is made.

***It is not necessary that both persons experience lust when physical contact is made. Lust in either the male or female will be sufficient for Hurmat-e-Musahara to apply.**

3.) If a male looks at the internal private part of a female with lust/desire or a female looks at a male's private part with lust/desire and both male and female are Baaligh or Muraahiq. (Physical contact is not necessary for Hurmat-e-Musahara to apply in this case)

NOTE : Hurmat-e-Musahara will only apply if the person looking experiences lust. If the person being looked at experiences lust but the person looking does not, Hurmat-e-Musahara will not apply.

These are just simple guidelines to show where Hurmat-e-Musahara applies, but if a personal query about the law of Hurmat-e-Musahara does arise, it must be referred to a Mufti for a Fatwa.

LIST OF PERSONS THAT BECOME UNLAWFUL WHEN HURMAT-E-MUSAHARA APPLIES

CASE 1

If a male touches/kisses etc. a female, or vice versa, with lust occurring in either the male or female.

OUTCOME OF CASE 1

The female's mother (including step mother,) grandmother, daughter (including step daughter,) granddaughter and other females in the same line become unlawful on the male, i.e. the male cannot marry them.

The male's father (including step father,) grandfather, son (including step son,) grandson and others in the same line will become unlawful on the female, i.e. the female cannot marry them.

CASE 2

If a male touches/kisses etc. his mother-in-law, or vice versa, with lust occurring in either the male or female

OUTCOME OF CASE 2

The male's wife (i.e. mother-in-law's daughter) will become unlawful on him.

CASE 3

If a father-in-law touches/kisses etc. his daughter-in-law, or vice versa, with lust occurring in either the male or female.

OUTCOME OF CASE 3

The daughter-in-law will become unlawful for her husband.

CASE 4

If a male touches/kisses etc. his wife's daughter (step daughter or his own daughter), or vice versa, with lust occurring in either the male or female.

OUTCOME OF CASE 4

The male's wife will become unlawful on him.

CASE 5

If a female touches/kisses etc. her husband's son (her own or step son), or vice versa, with lust occurring in either the male or female.

OUTCOME OF CASE 5

She will become unlawful on her husband.

NOTE 1 : UNLAWFUL INTERCOURSE BETWEEN THE MALES AND FEMALES MENTIONED IN EACH CASE WILL HAVE THE SAME OUTCOME.

NOTE 2 : IF THE MALE LOOKS AT THE FEMALE'S INTERNAL PRIVATE PART (OR IF THE FEMALE LOOKS AT THE MALES PRIVATE PART) AND THE PERSON LOOKING HAS LUST/DESIRE THE CASE WILL HAVE THE SAME OUTCOME.

NOTE 3 : IF ANY OF THE ABOVE CASES HAPPEN UNINTENTIONALLY, HURMAT-E-MUSAHARA WILL STILL APPLY.

When Hurmat-e-Musahara takes place it is totally unlawful for the male and female to stay together, therefore it will become compulsory for the husband to divorce his wife.

Although the couple become unlawful on one another it is still compulsory for the female **NOT** to marry some other person until she has been divorced by her husband or by a Sharee Council.

RASULULLAH (SALLALLAHU ALAIHI WASALLAM) : AN EXAMPLE TO THE UMMAH

Rasulullah (Sallallahu alaihi wasallam) is an example to the whole of the Ummah. It is very important for us to follow the teachings and ways shown to us by Rasulullah (Sallallahu alaihi wasallam) in order to achieve success in this world and in the Hereafter.

Who could be more closer to Allah Ta'ala than Rasulullah (Sallallahu alaihi wasallam) ? Whose heart could be more cleaner than the heart of Rasulullah (Sallallahu alaihi wasallam) ? Who could be more fearing from Allah Ta'ala than Rasulullah (Sallallahu alaihi wasallam)? There was not even a slightest chance of an evil thought entering the heart of Rasulullah (Sallallahu alaihi wasallam).

Rasulullah Sallallahu alaihi wasallam) was totally safe from the Shaytaan and also from the Shaytaan's evil thoughts. Despite all this, Rasulullah (Sallallahu alaihi wasallam) never touched or shook hands with a female who was unlawful on him.

Hadhrat Aaisha (Radhiallahu-anha.) narrates :

"I swear by Allah, the hand of Rasulullah (Sallallahu alaihi wasallam) never touched the hand of any females." (Who were unlawful on him)

(Bukhari)

عن عائشة ﵂ قالت و الله ما مست يده يد امرأة قط (بخاري)

Hadhrat Umayyah Bint Raqiqah (Radhiallahu-anha) says :

"I came with a group of women to Rasulullah (Sallallahu alaihi wasallam) to take an oath of allegiance (Bayt). When Rasulullah (Sallallahu alaihi wasallam) did not touch our hand I enquired,

"O Rasulullah (Sallallahu alaihi wasallam) will you not place your hands on ours ?" (As you do with men.)

Rasulullah (Sallallahu alaihi wasallam) replied :

"I do not take the hand of women."

(Tirmizi)

عن أميمة بنت رقيقة ﵂ قالت أتيت النبي صلي الله عليه وسلم في نسـلـه

لنبايعه ... إلي قولها يا رسول الله ألا تصافحنا قال إني لا أصافح النسـاء

(ترمذي)

May Allah Ta'ala guide us, save us from the Nafs and Shaytaan and guide us to the path which pleases Him.

Aameen

و آخر دعوانا عن الحمد لله رب العلمين

و الصلوة و السلام علي رسوله الكريم و علي آله و اصحابه اجمعين

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MAKTABAH AL-MA'ARIF

Darul Uloom Al-Husainia,
SHEHDADPUR
Distt. Sanghar, Sindh, Pakistan

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